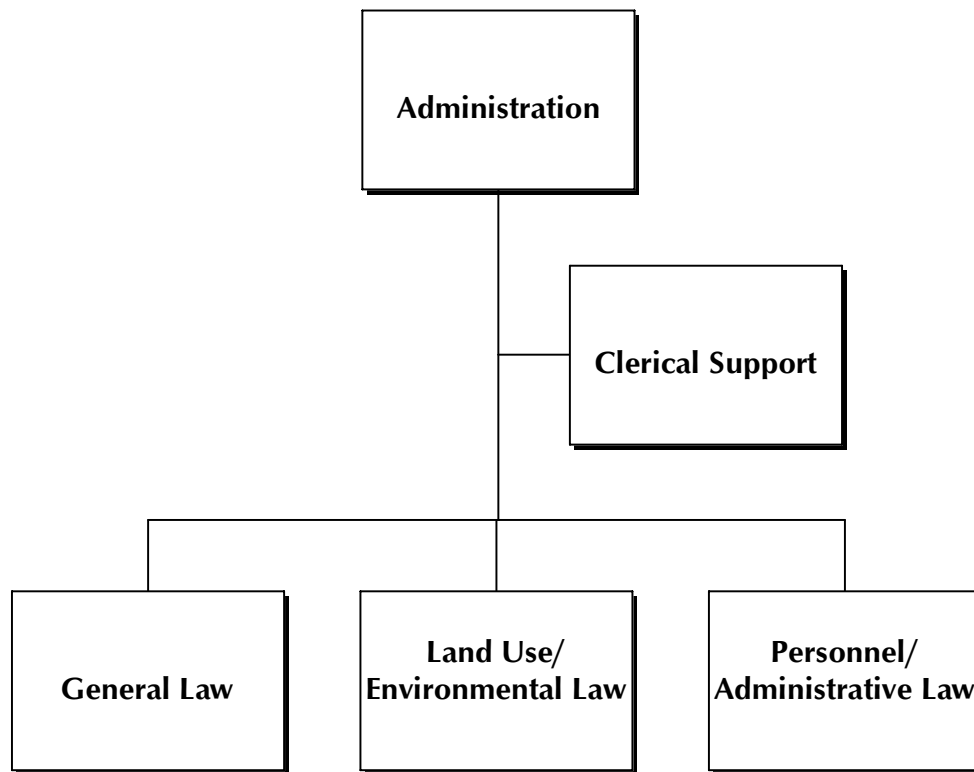


# Office of the County Attorney



## Mission

To provide the best possible legal counsel and representation to County officials and agencies in support of their mission to protect and enhance the community.

## Focus

The Office is divided into three sections: the General Law section; the Land Use/Environmental Law section; and the Personnel/Administrative Law section. The General Law section civilly prosecutes delinquent tax claims; defends erroneous tax assessment lawsuits; advises County agencies on highly complex financial matters and bond issues, including the formation of special tax and transportation improvement districts; interacts with the Virginia General Assembly on proposed legislation; drafts proposed County ordinances; reviews County contracts; and issues opinions to the governing body and the County Government on all manner of subjects. The Office maintains intensive collection and litigation efforts regarding tax delinquencies and bankruptcies. In addition, relatively high office vacancy rates often persuade owners to claim that their real estate tax assessments, which typically lag the market, are erroneously high. When those claims are not resolved administratively, litigation against the County often ensues, requiring the involvement of the Office of the County Attorney.

## THINKING STRATEGICALLY

Strategic issues for the Department include:





- Processing claims against the County to a favorable conclusion;
- Processing cases involving the abuse and neglect of children and the elderly;
- Continuing commitment to promote revitalization of older neighborhoods and housing opportunities for the aging population;
- Attracting and retaining talented attorneys to work in the public sector; and
- Assuming a leadership role in facilitating transit in the Dulles corridor and in developing public-private partnerships to effect major highway improvements.

## Office of the County Attorney

The Land Use/Environmental Law section defends land use decisions of the Board of Supervisors, drafts and enforces zoning ordinances and land development regulations, brings condemnation actions, sues defaulting developers, advises County agencies on environmental issues, and reviews subdivision documents affecting County property interests. The shrinking inventory of land in the County on which development can take place increases infill development and brings with it its attendant problems. When land that was passed over earlier becomes the subject of a rezoning application, neighbors, who have come to consider the tract as perpetual green space, frequently oppose the application and will cite all of the problems that led to the property being passed over the first time. If the Board of Supervisors approves such an application, litigation challenging the decision becomes likely. In addition, new developments may have an adverse environmental impact on neighboring developments. As a result, the Land Use/Environmental Law section may be called upon to enforce environmental constraints such as the County's erosion and sediment control regulations.

The Personnel/Administrative Law section defends County personnel decisions before administrative hearings and in litigation; provides counsel to the Fairfax County Redevelopment and Housing Authority and the Park Authority; civilly prosecutes cases involving abuse and neglect of children and elders in the Juvenile and Domestic Relations District Court; drafts personnel and retirement ordinances; and defends the County and its employees in tort actions. A growing population density and an aging of that population impact this section in that accidents involving County vehicles are more likely, as are the filing of tort lawsuits. More people also means more instances of abuse and neglect of children and elders, the results of which currently occupy the efforts of five full-time attorneys. The aging population, many of whom will be on lower fixed incomes during their retirement years, sometimes requires the County to assist them in meeting their housing needs and which can result in more work for the section in its provision of legal advice to the Redevelopment and Housing Authority.

### New Initiatives and Recent Accomplishments in Support of the Fairfax County Vision

 <b>Building Livable Spaces</b>	<b>Recent Success</b>	<b>FY 2007 Initiative</b>
Maintain increased litigation efforts to recover funds necessary to complete projects in which developers have defaulted so that the developments are completed to the satisfaction of those owning homes in those developments without cost to the taxpayers.	✓	✓
 <b>Connecting People and Places</b>	<b>Recent Success</b>	<b>FY 2007 Initiative</b>
Continue to work with all of the stakeholders in the Dulles corridor in identifying viable financial models to affect the expansion of rail to Dulles.	✓	✓
 <b>Creating a Culture of Engagement</b>	<b>Recent Success</b>	<b>FY 2007 Initiative</b>
Continue to participate in numerous community dialogues sponsored by members of the Board of Supervisors to educate County residents on the many activities of County government and the legal issues surrounding them.	✓	✓
 <b>Exercising Corporate Stewardship</b>	<b>Recent Success</b>	<b>FY 2007 Initiative</b>
Continue to successfully defend high-dollar personal injury claims brought against the County.	✓	✓

# Office of the County Attorney

## Budget and Staff Resources



Agency Summary					
Category	FY 2005 Actual	FY 2006 Adopted Budget Plan	FY 2006 Revised Budget Plan	FY 2007 Advertised Budget Plan	FY 2007 Adopted Budget Plan
Authorized Positions/Staff Years					
Regular	64/ 64	64/ 64	64/ 64	64/ 64	64/ 64
Expenditures:					
Personnel Services	\$5,139,030	\$5,552,750	\$5,552,750	\$5,797,418	\$5,797,418
Operating Expenses	513,775	566,940	716,692	568,985	568,985
Capital Equipment	0	0	0	0	0
<b>Subtotal</b>	<b>\$5,652,805</b>	<b>\$6,119,690</b>	<b>\$6,269,442</b>	<b>\$6,366,403</b>	<b>\$6,366,403</b>
Less:					
Recovered Costs	(\$382,736)	(\$397,240)	(\$397,240)	(\$414,361)	(\$414,361)
<b>Total Expenditures</b>	<b>\$5,270,069</b>	<b>\$5,722,450</b>	<b>\$5,872,202</b>	<b>\$5,952,042</b>	<b>\$5,952,042</b>
Income:					
Legal Counsel to FCPS	\$36,178	\$35,997	\$35,997	\$35,997	\$35,997
County Attorney Fees	0	1,000	1,000	1,000	1,000
Litigation Proceeds	245,357	92,613	92,613	92,613	92,613
<b>Total Income</b>	<b>\$281,535</b>	<b>\$129,610</b>	<b>\$129,610</b>	<b>\$129,610</b>	<b>\$129,610</b>
<b>Net Cost to the County</b>	<b>\$4,988,534</b>	<b>\$5,592,840</b>	<b>\$5,742,592</b>	<b>\$5,822,432</b>	<b>\$5,822,432</b>

Position Summary		
<u>Administration</u>	<u>Land Use/ Environmental Law</u>	<u>Personnel/ Administrative Law</u>
1 County Attorney	1 Deputy County Attorney	1 Deputy County Attorney
2 Administrative Associates	2 Senior Assistant County Attorneys	2 Senior Assistant County Attorneys
1 Network Analyst II	3 Assistant County Attorneys VI	1 Assistant County Attorney VII
	5 Assistant County Attorneys V	5 Assistant County Attorneys VI
	3 Paralegal Assistants	6 Assistant County Attorneys V
		2 Paralegal Assistants
<u>Clerical Support</u>	<u>General Law</u>	
11 Administrative Assistants IV	1 Deputy County Attorney	
1 Administrative Assistant III	1 Senior Assistant County Attorney	
1 Administrative Assistant II	3 Assistant County Attorneys VII	
	2 Assistant County Attorneys VI	
	4 Assistant County Attorneys V	
	5 Paralegal Assistants	
<b>TOTAL POSITIONS</b>		
<b>64 Positions / 64.0 Staff Years</b>		

## FY 2007 Funding Adjustments

The following funding adjustments from the FY 2006 Revised Budget Plan are necessary to support the FY 2007 program:

- ◆ **Employee Compensation** **\$244,668**  
An increase of \$244,668 in Personnel Services is associated with salary adjustments necessary to support the County's compensation program.
- ◆ **Intergovernmental Charges** **\$2,045**  
A net increase of \$2,045 in Operating Expenses is due primarily to an increase of \$2,673 in Information Technology charges based on the agency's historic usage of mainframe applications, partially offset by a net decrease of \$628 for Department of Vehicle Services charges based on anticipated charges for fuel, vehicle replacement, and maintenance costs.

## Office of the County Attorney

- ◆ **Carryover Adjustments** **(\$149,752)**  
A decrease of \$149,752 in Operating Expenses is due to one-time expenses as part of the FY 2005 Carryover Review.
- ◆ **Recovered Costs** **(\$17,121)**  
An increase of \$17,121 in Recovered Costs is based on projected salary and operating requirements.

### Board of Supervisors' Adjustments

*The following funding adjustments reflect all changes to the FY 2007 Advertised Budget Plan, as approved by the Board of Supervisors on May 1, 2006:*

- ◆ The Board of Supervisors made no adjustments to this agency.

### Changes to FY 2006 Adopted Budget Plan

*The following funding adjustments reflect all approved changes in the FY 2006 Revised Budget Plan since passage of the FY 2006 Adopted Budget Plan. Included are all adjustments made as part of the FY 2005 Carryover Review and all other approved changes through December 31, 2005:*

- ◆ **Carryover Adjustments** **\$149,752**  
As part of the FY 2005 Carryover Review, the Board of Supervisors approved encumbered funding of \$149,752 in Operating Expenses.

*The following funding adjustments reflect all approved changes to the FY 2006 Revised Budget Plan from January 1, 2006 through April 24, 2006. Included are all adjustments made as part of the FY 2006 Third Quarter Review:*

- ◆ The Board of Supervisors made no adjustments to this agency.

## Key Performance Measures

### Objectives

- ◆ To ensure that the civil litigation brought by or against the County of Fairfax and its constituent entities in state or federal, trial or appellate courts and administrative tribunals is consistently processed to a favorable conclusion by maintaining the percentage of lawsuits concluded favorably at 97 percent.
- ◆ To maintain the response time to all requests for legal opinions and advice from the Board of Supervisors, other boards, authorities or commissions, the County Executive, and County agencies at 87 percent of responses meeting timeliness standards.
- ◆ To forward a final draft Bill of Complaint to the Zoning Administrator within 40 days of the request for zoning enforcement 90 percent of the time.
- ◆ To maintain the recovery rate of amounts referred for collection by the Department of Tax Administration at a minimum of 63 percent.

# Office of the County Attorney

Indicator	Prior Year Actuals			Current Estimate	Future Estimate
	FY 2003 Actual	FY 2004 Actual	FY 2005 Estimate/Actual	FY 2006	FY 2007
<b>Output:</b>					
Lawsuits completed	1,174	924	725 / 816	775	775
Advisory responses completed	3,281	3,155	3,155 / 3,416	3,200	3,200
Draft Bills of Complaint submitted	51	62	52 / 58	56	56
Dollars collected for real estate	\$1,535,351	\$200,450	\$1,100,000 / \$933,025	\$1,000,000	\$1,000,000
Dollars collected for BPP, PP, BPOL, Other (1)	\$3,759,330	\$4,176,537	\$3,000,000 / \$3,598,480	\$3,200,000	\$3,200,000
Total dollars collected	\$5,294,681	\$4,376,987	\$4,100,000 / \$4,531,505	\$4,200,000	\$4,200,000
<b>Efficiency:</b>					
Lawsuits completed per staff	18	14	11 / 13	12	12
Responses provided per staff	51	49	49 / 53	50	50
Draft Bills of Complaint per staff assigned	20	25	19 / 23	22	22
Salaries expended per collection amount	10%	12%	13% / 12%	13%	13%
<b>Service Quality:</b>					
Percent of lawsuits concluded favorably	98%	97%	97% / 99%	97%	97%
Percent of advisory responses meeting timeliness standards for BOS requests (14 days)	96%	91%	96% / 93%	96%	96%
Percent of advisory responses meeting timeliness standards for subdivision review (21 days)	99%	100%	95% / 100%	95%	95%
Percent of advisory responses meeting timeliness standards for legal opinion (30 days)	65%	89%	80% / 80%	80%	80%
Percent of advisory responses meeting timeliness standards for Freedom of Information Act requests (according to state law)	100%	99%	100% / 100%	100%	100%
Percent of advisory responses meeting timeliness standards for other requests (1 year)	80%	86%	80% / 84%	80%	80%
Percent of advisory responses meeting timeliness standards overall	84%	88%	86% / 87%	87%	87%
Percent of zoning enforcement requests meeting 40-day submission standard	100%	61%	80% / 88%	90%	90%
Collection rate (Total BPOL, BPP, PP, collected in current year divided by total BPOL, BPP, PP referred in previous year) (1)	85%	80%	63% / 79%	63%	63%

## Office of the County Attorney

Indicator	Prior Year Actuals			Current Estimate	Future Estimate
	FY 2003 Actual	FY 2004 Actual	FY 2005 Estimate/Actual	FY 2006	FY 2007
<b>Outcome:</b>					
Percentage point change of lawsuits concluded favorably during the fiscal year	1	(1)	0 / 2	2	0
Percentage point change of responses meeting timeliness standards	3	4	(2) / (1)	0	0
Percentage point change in zoning enforcement requests meeting 40-day submission standard	20	(39)	19 / 27	2	0
Percentage point change in recovery of amounts referred for collection	14	(5)	(17) / (1)	(16)	0

(1) BPP = Business Personal Property Tax; PP = Personal Property Tax; BPOL = Business, Professional and Occupational License Tax.

### Performance Measurement Results

In FY 2005, 99 percent of lawsuits brought by or against the County were concluded favorably, thereby exceeding the objective of 97 percent. The Office of the County Attorney anticipates a continued high percentage of favorably concluded lawsuits in fiscal years 2006 and 2007.

In FY 2005, the target of 80 percent for meeting the 40-day submission standard for Zoning Enforcement suits was met. The Office will be working to meet the new 90 percent target estimate, now based upon draft submission, for fiscal years 2006 and 2007.

The dollar recovery rate on collection suits is based on delinquencies that are referred by the Department of Tax Administration to the Office of the County Attorney's target component and the amount recovered. In FY 2005, the collection rate was 79 percent, which exceeded the objective of 63 percent. The Office of the County Attorney does not expect the dollar recovery rate to be as high in FY 2006 and FY 2007, since more accounts with smaller dollar values are anticipated to be resolved, but the Office will still strive to meet its goal of a 63 percent collection rate.

The response time to all requests for legal opinions and advice is based on responses to requests from the Board of Supervisors, other boards, authorities and commissions, the County Executive, and County departments. The percentage of advisory responses meeting timeliness standards was 87 percent overall in FY 2005, slightly exceeding the objective of 86 percent. Although the Office of the County Attorney did not meet the timeliness standards for providing responses to the Board of Supervisors, its effort to improve response times in that area did result in an increase from 91 percent to 93 percent over FY 2004. The Office will continue to work to improve in that particular area, which is set at a 14-day turnaround.